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REMARKS

In the Office Action, the Examiner noted that claims 1-19 and 23-27 are pending in the application, that claims 1-18 are allowed, and claims 19 and 23-27 stand rejected. By this response, claims 19, 23 and 24 are amended and claims 1-18 and 25-27 continue unamended.

It is to be understood that the applicant, by amending the claims, does not acquiesce to the Examiner's characterizations of the art of record or to applicants' subject matter recited in the pending claims. Further, applicants are not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing the instant responsive amendments.

In view of the following discussion, the applicants submit that none of the claims now pending in the application is obvious under the provisions of 35 U.S.C. §103. Thus, the applicants believe that all of these claims are now in allowable form.

Specification Amendments

The applicants have amended the specification to correct minor spelling mistakes. Such amendments do not add any new subject matter to the application.

Allowable Subject Matter

The Examiner has noted that claims 1-18 contain allowable subject matter. The applicants thank the Examiner for indicating such allowable subject matter with respect to claims 1-18.

Rejections35 U.S.C. §103

The Examiner has continued his rejection of claims 19 and 23-27 under 35 U.S.C. §103(a) as being unpatentable over the Asamizuya et al. patent (U.S. Patent No. 6,314,576, issued November 6, 2002) in view of the Liu et al. patent (U.S. Patent No. 5,970,233, issued October 19, 1999) and the Russo et al. patent (U.S. Patent No.

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5,701,383, issued December 23, 1997). The applicants respectfully traverse the rejection.

A. Claims 19 and 23-27

The applicants' invention in claim 19 (and similarly independent claims 23 and 24) recites:

"A method for providing demand television comprising the steps of:
encoding, in real-time via a first encoder, a broadcast video frame sequence to form a broadcast bitstream, while contemporaneously encoding, via a second encoder, the broadcast video frame sequence to form a storage bitstream;

broadcasting the broadcast bitstream to subscriber equipment;
storing the storage bitstream within a storage device;
upon a subscriber selecting to view information previously broadcast by the broadcast bitstream, transmitting to the subscriber the storage bitstream; and
upon a request from a subscriber, switching from decoding said storage bitstream to decoding said broadcast bitstream."
(emphasis added).

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 U.S.P.Q. 1021, 1024 (Fed. Cir. 1984) (emphasis added). None of the references, either singly or in combination, teach or suggest the applicants' invention as a whole.

In particular, the Asamizuya reference fails to teach or suggest "encoding, in real-time, via a first encoder, a broadcast video frame sequence to form a broadcast bitstream, while contemporaneously encoding, via a second encoder, the broadcast video frame sequence to form a storage bitstream." Specifically, the Asamizuya reference discloses providing an encoding device, where the encoder compresses and encodes video signals and audio signals of a film stock or a VTR stock input via a switching circuit based on the MPEG-2 standard. A controller performs a control for storing the digitally compressed and encoded AV signals transmitted from the encoder to an archive storage (see Asamizuya, column 9, lines 3-9, and column 10, lines 4-6). Nowhere is there any teaching or suggestion in the Asamizuya reference of encoding, in real time via a first encoder, a broadcast video frame sequence to form a broadcast

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bitstream, while contemporaneously encoding, via a second encoder, the broadcast video frame sequence to form a storage bitstream.

Further, the Liu reference fails to bridge the substantial gap as between the Asamizuya reference and the applicants' invention. Specifically, the Liu reference discloses copying an encoded video bitstream to a mass storage device for future playback and/or transmit the encoded video bitstream to a transmitter for real-time transmission to a remote receiver (see Liu, column 3, lines 36-42). That is, the Liu reference merely teaches that a previously encoded video bitstream is merely copied, and then the copied version is stored into a mass storage device. This is completely different from the applicants' invention where "a broadcast video frame sequence is encoded, via a first encoder, to form a broadcast bitstream, while at the same time the broadcast video frame sequence is encoded, via a second encoder, to form a storage bitstream." That is, a single broadcast video frame sequence is encoded twice, where both encoding instances occur contemporaneously. A first encoding instance by a first encoder forms a broadcast bitstream, while a contemporaneous second encoding instance forms a storage bitstream. That is, both the broadcast bitstream and the storage bitstream are formed contemporaneously.

Moreover, the Russo reference also fails to bridge the substantial gap as between the combination of the Asamizuya reference and the Liu reference and the applicants' invention. Specifically, the Russo reference merely discloses:

"If a time-shifted version of the program is being output for any reason, a FAST FORWARD command may be entered, in which case playback is speeded up until deactivation of the command, at which time normal playback resumes, resulting in the output of the program exhibiting a reduced time shift, including a zero time shift in the event the operator "catches up" with the incoming program as it is being received." (See Russo, column 3, lines 31-38.)

Nowhere in the Russo reference is there any teaching or suggestion of "encoding, in real-time, via a first encoder, a broadcast video frame sequence to form a broadcast bitstream, while contemporaneously encoding, via a second encoder, the broadcast video frame sequence to form a storage bitstream."

Even if the three references could somehow be operably combined, the combination would still fail to teach or suggest the invention as a whole. Specifically,

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the combination would merely disclose encoding video and audio signals based on an MPEG-2 standard, copying the encoded AV signals, and storing the copied encoded AV signals to a mass storage device. Since none of the references, either singly or in combination, teach or suggest "encoding, in real-time, via a first encoder, a broadcast video frame sequence to form a broadcast bitstream, while contemporaneously encoding, via a second encoder, the broadcast video frame sequence to form a storage bitstream," these references fail to teach the applicants' invention as a whole.

As such, the applicants submit that claim 19 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Likewise, independent claims 23 and 24 have been amended to recite similar limitations as recited in claim 19. As such and for at least the same reasons discussed above, the applicants submit that these independent claims also fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Furthermore, claims 25-27 depend from independent claim 24 and recite additional features thereof. As such, and for at least the same reasons as discussed above, the applicants also submit that these dependent claims are not obvious and also fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, the applicants respectfully request that the rejections be withdrawn.

Conclusion

The applicants believe that all of the claims presently in the application are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Steven M. Hertzberg, Esq. or Eamon J. Wall, Esq. at (908) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

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Respectfully submitted,



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